IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRI. APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 214 OF 2005

Sugula Mariappa Gaikwad
R/at Shankar Marwadi Chawl,
Ground floor, R.No. 2/3,
P.B. Marg, Mumbai - 400 004. ... Petitioner

V/s

1. Mr. A.N. Roy,
   Commissioner of Plice, Bombay.

2. Sr. Inspector of Police,
   V.P. Road Police Station, Bombay.

3. The State of Maharashtra. ... Respondents

Mr. P.R. Dave for the petitioner.

Mr. V.A. Thorat, Advocate General with B.H. Mehta, A.P.P. for the respondents 1 to 3.

CORAM: R.M.S. KHANDEPARKAR & P.V. KAKADE, JJ.

DATED: 15TH MARCH, 2005

P.C.:

1. The learned Advocate General for the respondents states that, taking into consideration the provisions of Sec. 18 of the Prevention of Immoral Traffic Act, 1956 and the facts of the case, the respondents crave leave to withdraw the impugned order dated 2.8.2004 alongwith show cause notice dated 24.3.2004 which was issued to

the petitioner in relation to the premises in question with liberty to issue fresh show cause notice and to pass fresh order after hearing the petitioner. Our attention has also been drawn to four different cases stated to have been filed during the period of last three years in relation to the same premises on account of the same being used for running a brothel therein. On hearing the learned Advocate General and the learned advocate for the petitioner, we are satisfied that the matter needs to be dealt with in accordance with the provisions of law under Sec. 18 of the said Act and for that purpose the respondents are justified in seeking leave to withdraw the impugned order for issuing fresh show cause notice to the petitioner and to initiate fresh proceeding and thereafter to pass appropriate order in accordance with the provisions of law after hearing the petitioner.

3. Hence the respondents are allowed to withdraw the impugned order dated 2.8.2004 alongwith show cause notice dated 24.3.2004 so far as it relates to the petitioner in relation to the premises in question and to initiate fresh proceedings under Sec. 18 of the said Act in respect of the matter pertaining to which the show cause notice dated 24.3.2004 was issued. Needless

to say that the final order should not be passed without hearing the petitioner and in case of any adverse order to the petitioner, effect should not be given to the same for a period of two weeks from the date of communication of such order to the petitioner. If such proceedings are initiated by issuing show cause notice, the same shall be concluded within a period of 12 weeks from the date of service of the show cause notice upon the petitioner. Till the respondents passes the final order, the petitioner shall not lease out or part with the possession of the premises in question in any manner and the use of the said premises shall be subject to the final order to be passed in such proceedings. Needless to say that, all the contentions raised on behalf of both parties are kept open and this Court has not expressed any opinion on any of those contentions. Petition stands disposed of.

(R.M.S. Khandeparkar, J.)

(P.V. Kakade, J.)